

Before the
Federal Communications Commission
Washington, D.C. 20554

ACCEPTED/FILED

NOV 12 2015

Federal Communications Commission
Office of the Secretary

In re)
)
MARITIME COMMUNICATIONS/LAND) WT Docket No. 13-85
MOBILE, LLC) FRN: 0013587779
)
Participant in Auction No. 61 and Licensee of) Application File No. 0005552500
Various Authorizations in the Wireless Radio)
Services)
)
and)
)
CHOCTAW HOLDINGS, LLC)
)
Applicant for Assignment of Various)
Authorizations in the Wireless Radio Services)

To: Marlene H. Dortch, Secretary
Attention: The Commission

ENFORCEMENT BUREAU'S RESPONSE TO
MCLM'S AND CHOCTAW'S MOTIONS FOR LEAVE TO SUPPLEMENT THEIR
PETITIONS FOR RECONSIDERATION

1. On November 6, 2015, Maritime Communications/Land Mobile, LLC (MCLM) requested leave to file a supplement to its pending petition for reconsideration of the Commission's *Memorandum Opinion and Order (Order)*, FCC 14-133, denying MCLM and Choctaw Telecommunications, LLC and Choctaw Holdings, LLC (collectively, Choctaw) relief pursuant to the Commission's *Second Thursday* doctrine.¹ Choctaw filed a similar pleading on November 9, 2015.² Pursuant to Section 1.106(g) of the Commission's rules,³ the Chief,

¹ See Motion for Leave to Supplement Petition for Reconsideration, filed Nov. 6, 2015 (MCLM's Motion). MCLM concurrently filed its Supplement to Petition for Reconsideration, filed Nov. 6, 2015 (MCLM's Supplement).

² See (Choctaw's) Motion for Leave to Supplement Petition for Reconsideration (Choctaw's Motion) and Supplement to Petition for Reconsideration, filed concurrently on Nov. 9, 2015 (Choctaw's Supplement).

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Enforcement Bureau (Bureau), by his attorneys, herein responds to these recent submissions. The Bureau has no objection to the motions for leave to supplement, and believes it would be appropriate to reconsider the *Order*.

Background

2. In the *Order*, the Commission denied MCLM's and Choctaw's request for *Second Thursday* relief,⁴ concluding that MCLM and Choctaw failed to demonstrate that Donald DePriest, one of the individuals suspected of misconduct, “will either derive no benefit from favorable action on the applications or only a minor benefit which is outweighed by equitable considerations in favor of innocent creditors.”⁵ In particular, the Commission found that “there [was] a substantial possibility that granting the application would permit the DePriests to obtain a benefit that is neither minor nor incidental by releasing Mr. DePriest from his obligations under his personal guarantees of loans to MCLM.”⁶

3. On October 14, 2014, MCLM and Choctaw filed petitions for reconsideration of the *Order*.⁷ Therein, MCLM and Choctaw asserted that, as the result of a recent filing of an involuntary petition with the U.S. Bankruptcy Court for the Northern District of Mississippi (Bankruptcy Court) against Donald DePriest, Mr. DePriest would be discharged of personal liabilities, including the guarantees associated with the MCLM bankruptcy, and that those MCLM creditors would not be able to collect on the guarantees from Mr. DePriest.⁸ MCLM and Choctaw argued, therefore, that Mr. DePriest would not receive either a direct or indirect benefit

³ See 47 C.F.R. § 1.106(g).

⁴ *Maritime Communications/Land Mobile, LLC*, Memorandum Opinion and Order, FCC 14-133 (rel. Sept. 11, 2014).

⁵ *Id.* at 8, ¶ 20 (citations omitted).

⁶ *Id.*

⁷ See Petition for Reconsideration, filed by Maritime Communications/Land Mobile, LLC in WT Docket No. 13-85 on Oct. 14, 2014 (MCLM's Petition); Petition for Reconsideration, filed by Choctaw Telecommunications, LLC and Choctaw Holdings, LLC in WT Docket No. 13-85 on Oct. 14, 2014 (Choctaw's Petition).

⁸ See, e.g., MCLM's Petition at 6, Choctaw's Petition at 6-7.

from the payment of those creditors' debts should the Commission grant *Second Thursday* relief.⁹

Argument

4. MCLM and Choctaw have now requested leave to file supplements to their petitions for reconsideration of the *Order*.¹⁰ In these supplemental pleadings, MCLM and Choctaw state that the Bankruptcy Court has now issued an order discharging Mr. DePriest's debts, including the guarantees of MCLM's creditors that were the basis for the Commission's *Order*.¹¹ Pursuant to Section 727 of the U.S. Bankruptcy Code, Mr. DePriest is no longer liable for these debts.¹² As a result, Mr. DePriest could not receive any benefit from being relieved of the obligation to pay these debts if the Commission granted MCLM and Choctaw's request for *Second Thursday* relief and the creditors were repaid from the proceeds from the assignment of the licenses.

5. As this potential benefit to Mr. DePriest was the only stated reason for the Commission's denial of *Second Thursday* relief, the Bureau suggests that reconsideration of the *Order* is now appropriate.¹³

⁹ See, e.g., Maritime's Petition at 6, Choctaw's Petition at 8.

¹⁰ See *supra* notes 1 and 2.

¹¹ See, e.g., MLCM's Supplement at 2 and Attachment No 1 thereto; Choctaw's Supplement at 2 and Exhibits 1 and 2 thereto.

¹² See, e.g., 11 U.S.C. § 727(a) ("a discharge under subsection (a) of this section discharges the debtor from all debts that arose before the date of the order for relief under this chapter").

¹³ The Bureau stands ready to offer additional comment as necessary.

Respectfully submitted,

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November 12, 2015

CERTIFICATE OF SERVICE

Alicia McCannon, an Enforcement Analyst in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has on this 12th day of November, 2015, sent by first class United States mail copies of the foregoing "ENFORCEMENT BUREAU'S RESPONSE TO MCLM'S AND CHOCTAW'S MOTIONS FOR LEAVE TO SUPPLEMENT THEIR PETITIONS FOR RECONSIDERATION" to

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